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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,168	02/27/2004	Hiroyoshi Hamanaka	763-42	9899

28249 7590 03/24/2006

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EXAMINER	
REIFSNYDER, DAVID A	

ART UNIT	PAPER NUMBER
1723	

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/789,168	HAMANAKA ET AL.	
	Examiner	Art Unit	
	David A. Reifsnyder	1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 August 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

The following is a quotation of 37 CFR 1.71(a):

> (a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

The specification is objected to under 37 CFR 1.71 (a) because of the way that Invention 5 is explained in the specification. The specification states on page 4, lines 6-9, as well as on page 9, lines 17-19 (i.e. Embodiment 3) that the fifth invention is an in-pipe running water activator characterized in **that germanium-including biotite granules and a permanent magnet are contacted and filed in a box-shaped retaining detail 11.** Furthermore, Figs 5 and 6 also show the fifth invention.

As Invention 5 is taught in the specification, Invention 5 can **not** be understood.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2 and 5 which are directed to Invention 5 are rejected under 35 USC 112, 1st paragraph for the reasons given above in the objections under 37 CFR 1.71.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a germanium-including biotite to be attached to a surface of a permanent magnet in several different ways, does not reasonably provide enablement for a germanium-including biotite to be brought in close proximity to a surface of a permanent magnet. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to teach implanting an in-pipe running water activator in a body. For that matter, the specification fails to teach implanting anything in a body.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1; the recitations of "the water circulation pipe", "the extension fitting" and "the infrared radiation" all lack antecedent basis . Furthermore, the recitation of "in such a manner" is vague and indefinite as to what is meant by "such a manner". In

addition, the recitation of "allowed to act on water" is vague and indefinite as to what is meant by "allowed to act on water.

Regarding claim 2; the recitation of "is used as a powder" is vague and indefinite as to whether a powder is being claimed. Furthermore, the entire recitation of "or in powder or granular form is brought into movable contact with the permanent magnets, or a magnet-bonded molding by mixing it with a ferromagnetic powder and bonding it to the magnet." can not be understood.

Regarding claim 3; it is vague and indefinite as to how the auxiliary retaining detail is structurally related to the retaining detail.

Regarding claim 4; the recitation of "the paint film" lacks antecedent basis. Furthermore, since claim 3 claims; a permanent magnet (1) with germanium-including biotite bonded thereon is positioned in an inner surface (4) of a roughly U-shaped retaining detail and an auxiliary retaining detail (3) is used to hold an upper surface of the magnet in position, the entire claim 7 can not be understood.

Regarding claim 5; the entire claim 5 can not be understood.

Regarding claim 6; since claim 3 claims; a permanent magnet (1) with germanium-including biotite bonded thereon is positioned in an inner surface (4) of a roughly U-shaped retaining detail and an auxiliary retaining detail (3) is used to hold an upper surface of the magnet in position the entire claim 6 can not be understood.

Regarding claim 7; the recitation of "the inner side" lacks antecedent basis. Furthermore, since claim 3 claims; a permanent magnet (1) with germanium-including biotite bonded thereon is positioned in an inner surface (4) of a roughly U-shaped

retaining detail and an auxiliary retaining detail (3) is used to hold an upper surface of the magnet in position, the entire claim 7 can not be understood.

Regarding claim 8; the recitation of "An in-pipe running water activator in accordance with claim 7 characterized in that it is a permanent magnet composed of a magnet board" is vague and indefinite because while the permanent magnet can be composed of a magnetic board, the in-pipe water activator can **not be** a permanent magnet composed of a magnetic board. Furthermore, since claim 3 claims; a permanent magnet (1) with germanium-including biotite bonded thereon is positioned in an inner surface (4) of a roughly U-shaped retaining detail and an auxiliary retaining detail (3) is used to hold an upper surface of the magnet in position, the entire claim 8 can not be understood.

Regarding claim 9; because claim 5 claims germanium-including biotite granules and a permanent magnet are contracted and filled in or with a box-shaped retaining detail, the entire claim 9 can not be understood.

Regarding claim 10; the recitation of "the body" lacks antecedent basis. Furthermore, the recitation "implanting in the body an in-pipe running water activator" does not make sense as to how an in-pipe running water activator could be implanted in a body. Also, the recitation of "a bonded magnet molding obtained in a manner such that a germanium-including biotite powder and a ferromagnetic powder are brought together and processed to bond to the magnet"; can not be understood.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Miyaguchi.

Regarding claim 10; Miyaguchi discloses a sheet material for medical treatment comprising a germanium including ceramic material for emitting far infrared rays and a magnetic material. (col. 3, lines 5-30)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denzer in view of Kulish and (Aki et al. or Miyaguchi)

Regarding claims 1-9; Denzer et al. discloses an water activation system (10) and method, the water activation system (10) comprising:

an acrylic water supply pipe (11) having outer and inner surfaces, the outer surface being coated with a far infrared ceramic powder;

an outer sleeve (12) surrounding the water supply pipe (11);

end caps (13,14), each end cap (13, 14) mating with one end of the water supply pipe (11), and one end of the outer sleeve to form a cavity (15) with watertight seals;

two rows of permanent magnets (16), one row of permanent magnets being positioned along the water supply pipe (11) in an opposing position to the other row of permanent magnets;

wherein the cavity (15) is filled with an epoxy which secures the two rows of permanent magnets (16) and the far infrared ceramic powder in place on the water supply pipe (11). (paragraph [0031]; Figs 3-5)

Regarding claims 1-9; Kulish discloses an water activation system (10) and method, the water activation system comprising: a water supply pipe with a plurality of permanent magnets surrounding the water supply pipe, (Figs. 1, 2, 4, 5) wherein the N poles of the permanent magnets are arranged in mutually opposed positions on the water supply pipe. (Fig. 10, col. 4, lines 25-37)

Regarding claims 1-9; Aki et al. discloses a sheet material for medical treatment comprising a germanium including ceramic material for emitting far infrared rays. (Abstract)

Regarding claims 1-9; Miyaguchi discloses a sheet material for medical treatment comprising a germanium including ceramic material for emitting far infrared rays and a magnetic material. (col. 3, lines 5-30)

Regarding claims 1-9; it is considered that it would have been obvious to one having ordinary skill in the art at the time of the invention for Denzer et al.'s to have positioned his permanent magnets (16) with their N poles opposed as taught by Kulish because Denzer et al. and Kulish both disclose very similar water activation systems.

Furthermore, regarding claims 1-9; it is considered that it would have been obvious to one having ordinary skill in the art at the time of the invention to have that Denzer et al's far infrared ceramic powder be a germanium including infrared ceramic powder as taught by Aki et al. or Miyaguchi because Denzer et al.'s far infrared ceramic

powder needs to include some material that emits infrared radiation and germanium is a well known material for emitting infrared radiation.

Note: It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. ***In re Leshin, 125 USPQ 416.***

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aki et al. in view of Miyaguchi.

Regarding claim 10; Aki et al. discloses a sheet material for medical treatment comprising a germanium including ceramic material for emitting far infrared rays. (Abstract)

Regarding claim 10; Miyaguchi discloses a sheet material for medical treatment comprising a magnetic material. (Abstract)

It is considered that it would have been obvious to one having ordinary skill in the art at the time of the invention to mixed the materials of Aki et al. and Miyaguchi together to arrive at the applicant's method, because infrared materials and magnetic materials are both well known materials used in making sheet material for medical treatment.

Note: It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. ***In re Leshin, 125 USPQ 416.***

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hamanaka et al. who is the applicant of the present invention and filed JP 2005-081228 A and JP 2005-080325 A which is **related** to the instant application and discloses an in-pipe water activator and method characterized in that the N poles of permanent magnets are arranged in mutually opposing positions in a water supply pipe so that a repulsive magnetic field is induced in the pipe and infrared radiation emitted from a germanium-including biotite that is bonded to a surface of the permanent magnets so as to activate water flowing through the water supply pipe.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Reifsnyder whose telephone number is (571) 272-1145. The examiner can normally be reached on M-F 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda M. Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David A Reifsnyder
Primary Examiner
Art Unit 1723

DAR